

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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**FILE:** B-219592  
**MATTER OF:** Motorola Inc.

**DATE:** July 24, 1985

**DIGEST:**

An offer sent by a commercial carrier is regarded as hand-carried, and can only be considered if it is shown that the paramount cause for the late receipt is some improper government action.

Motorola Inc. protests the rejection of its offer for integrated circuits under request for proposals (RFP) No. MDA904-85-R-5142, issued by the Department of the Army. The offer was rejected as late because it was not received in the office designated in the solicitation by the time set for receipt of proposals.

We dismiss the protest.

The solicitation provided that hand-carried proposals were to be delivered to 840 Elkridge Landing Road, Linthicum, MD. It also provided that "when using the U.S. Postal Service" proposals must be sent to the issuing office at 9800 Savage Road, Ft. Meade, MD. Motorola's offer was sent by Federal Express, a commercial carrier, but was addressed to the issuing office. Although the proposal was received at 9800 Savage Road on time, it was deposited in the agency's internal mail system and was not received by the contracting officer until after the deadline for receipt of proposals.<sup>1/</sup>

We find that Motorola's offer was properly rejected. An offer delivered to an agency by Federal Express or other commercial carrier is considered to be hand-carried, and if it arrives late, it can only be considered if it

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<sup>1/</sup> The Federal Express package carried no indication of its contents.

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is shown that the paramount cause for the late receipt is some improper government action. Olympia USA Inc., B-215139, May 21, 1984, 84-1 CPD ¶ 535. An offer is late if it does not arrive at the office designated in the solicitation by the time specified. Id.

In this case, the place designated for receipt of hand-carried proposals was the Elkridge Landing Road address, and Motorola's offer was not received at that address on time. Moreover, it is apparent that the paramount cause of the late receipt was the improper use of the Savage Road address by the protester, rather than any improper government action. See Photonics Technology, Inc., B-211234, Apr. 11, 1983, 83-1 CPD ¶ 378.

We find no merit to Motorola's contention that the lateness of its proposal should be excused because the solicitation provisions concerning proposal delivery did not specify that the term "hand-carried" included offers sent by Federal Express. First, the rule is well-established that bids or offers delivered by a commercial carrier, such as Federal Express, are regarded as hand-carried. See Consolidated Marketing Network, Inc., B-217256, Mar. 21, 1985, 85-1 CPD ¶ 330; Olympia USA Inc., B-215139, supra. Moreover, the solicitation contained specific information regarding proposal delivery and established one address for the receipt of offers sent via the U.S. Postal Service and another address for hand-carried offers. Since Federal Express clearly is not part of the Postal Service, we think that at the very least, Motorola should have requested clarification of the proper place for delivery of its proposal. See SysTec, Inc., B-209483, Apr. 8, 1983, 83-1 CPD ¶ 374. Accordingly, we find that Motorola is primarily responsible for the fact that its proposal was misaddressed.

In addition, the fact that Motorola's proposal was in the government's possession prior to the deadline for receipt of proposals is irrelevant since it has not been shown that some action by the government was the paramount cause for the proposal's late delivery to the proper place. See Photonics Technology, Inc., B-211234, supra.

The protest is dismissed.

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